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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/061,060	01/29/2002	Terry L. Glatt	46522 - 1004	5375
7590	05/03/2005		EXAMINER	
John M. Johnson U.S.P.T.O Kaye Scholer LLP 425 Park Avenue New York, NY 10022			ABEBE, DANIEL DEMELASH	
			ART UNIT	PAPER NUMBER
			2655	

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/061,060	GLATT, TERRY L.
	<b>Examiner</b>	<b>Art Unit</b>
	Daniel D Abebe	2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-38 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 24-27 is/are allowed.
- 6) Claim(s) 1-23 and 28-38 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>6/19/02</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-23 and 28-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Desai et al. (6,034,746).

As to claim 1, Desai teaches a method for inserting addition data into a digital data stream, comprising the steps of:

Receiving additional signal to be inserted;

Detecting boundary in the data stream to insert the additional dat;

Inserting the additional data;

Restarting the original data stream at insert point (Col.2, lines 25-45). Its noted that Desai teaches where the attributes of the two data stream maybe different resulting in the reinitialization of the decoder for the main data stream, however, where the attributes/format of the additional data and the original data are the same there is, inherently, no need for having distinct decoders and the reinitialization process.

As to claim 2, Desai teaches where the attribute of the additional data is determined whether it is same as the original (Col.2, lines 28-30).

As to claims 3-4, Desai teaches where the data is audio data (abstract) and where the additional data includes commercials (audio effects) (Col.2, lines 50-54).

As to claims 5-10, Desai teaches where "the invention is applicable to any type of digital data stream including but not limited MPEG-1, 2 (Col.4, lines12-17).

Claims 11-18 and 28-38 are analogous to claims 1-10 and are rejected for the foregoing reasons by Desai et al.

With respect to claim 19, Desai teaches where the additional inserted data includes video data (Col.4, lines 30-55).

As to claim 20, Desai teaches where the attribute of the additional data is determined whether it is same as the original (Col.2, lines 28-30).

As to claims 21-23, Desai teaches where "the invention is applicable to any type of digital data stream including but not limited MPEG-1, 2 (Col.4, lines12-17).

#### ***Allowable Subject Matter***

Claims 24-27 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: the claims are allowable because Desai doesn't teach disposing of the displaced frames..

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rangan et al. (6,493,872).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel D Abebe whose telephone number is 571-272-7615. The examiner can normally be reached on monday-friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on 571-272-7629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel Abebe Primary Examiner A.U. 2655



May 2, 2005